

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
)
 PUBLIC UTILITIES COMMISSION)
)
 Instituting a Proceeding to)
 Investigate the Implementation of)
 Feed-in Tariffs.)
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DOCKET NO. 2008-0273

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THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM'S
OPENING STATEMENT OF POSITION INCLUDING PROPOSALS FOR FEED-IN
TARIFFS DESIGNS, POLICIES, and PRICING METHODS

AND

CERTIFICATE OF SERVICE

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**THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM'S
OPENING STATEMENT OF POSITION INCLUDING PROPOSALS FOR FEED-IN
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The Department of Business, Economic Development, and Tourism ("Department" or "DBEDT"), by and through its Director ("Director") in his capacity as the Energy Resources Coordinator, and through the undersigned Deputy Attorney General, hereby submits to the Hawaii Public Utilities Commission ("Commission" or "PUC") its Opening Statement of Position including proposals for feed-in tariffs designs, policies, and pricing methods.

On October 24, 2008, the PUC initiated the instant docket, Docket No. 2008-0273, to examine the implementation of feed-in tariffs in the service territories served by the Hawaiian Electric Companies ("HECO Companies"). The PUC's order to examine the implementation of feed-in tariffs in the HECO

Companies' service territories cited the Energy Agreement ("Agreement") entered into between the State of Hawaii and the HECO Companies on October 20, 2008 under the auspices of the Hawaii Clean Energy Initiative ("HCEI").

HCEI is a long-term partnership between the State of Hawaii and the U.S. Department of Energy ("USDOE"), launched in January 2008, with the goal of meeting at least 70% of Hawaii's energy needs with indigenous renewable energy resources by 2030, providing long-term benefits to the people of Hawaii, including price stability (and ultimately a lower energy cost than would be incurred through continued dependence on imported fossil fuels), energy security, economic growth and diversification.

The Agreement is a commitment to accelerate the addition of new renewable energy resources and technology in the HECO Companies' generation portfolio, greater energy efficiency and demand-side load management programs, as well as to promote customer-sited and third-party owned renewable energy generation to help achieve the HCEI goal. To transition the HECO Companies to this new paradigm as well as to break down the barriers to this transition, the Agreement included several regulatory mechanisms, subject to PUC approval, that are designed to encourage and accelerate the addition of new renewable energy resources. One major mechanism included in the Agreement is a commitment by the parties to implement feed-in tariffs.

A. DBEDT's Opening Statement of Position

1. DBEDT believes that best designed feed-in tariffs are an effective tool in reducing Hawaii's dependence on imported fossil fuels by promoting and encouraging the development of renewable resource-based electricity generation.

Feed-in tariffs (FiTs) are the offering of a standardized fixed-price contract over a specified term with specified conditions to eligible renewable energy generators. A feed-in tariff is generally offered by a utility and sets a standing purchase power price that is often differentiated based on resource or technology type, resource quality, project size, or location.

DBEDT believes that FiTs are an effective tool in fostering the development of renewable resource-based electricity generation as evident by the experience of other nations such as Germany and Spain. Several other states in the nation are in different stages of considering adopting, mandating, and implementing FiTs. California's Assembly Bill (AB) 1969 added Public Utilities Code (PU Code) Section 399.20, authorizing tariffs and standard contracts for the purchase of eligible renewable generation from public water and wastewater facilities. California's Resolution E-4137 approved final tariffs and standard contracts that became effective on February 14, 2008. These new feed-in tariffs are available for the

purchase of up to 480 MW of renewable generating capacity from small facilities throughout California. The California Public Utilities Commission's (CPUC) decision D.07-07-027 issued in July 2007 extended FiTs to entities other than the water and wastewater agencies. Other states, such as Michigan, Illinois, Minnesota, and Rhode Island, are in different stages of considering legislative bills relating to some form of feed-in tariffs.

Feed-in tariffs are designed to encourage increased development of renewable energy generation by providing certainty and stability to the purchased power rates (and therefore, to the developer's revenue stream), as well as a more transparent and streamlined utility procurement and interconnection process. Under the current procurement rules, a renewable resource producer must compete in the utility's bid process and obtain PUC approval, which normally takes considerable time under a drawn-out procedure with uncertain outcome that may represent an unacceptable economic hurdle to the renewable resource producer. More importantly, the current bid process only applies to renewable resources with capacity of at least 5 MW (2.72 MW for MECO and HELCO), and there are no clear procurement rules required under the utility's current competitive bidding framework for the smaller renewable generators that are below this threshold size. Furthermore, the

utility procurement of renewable generation that meets the capacity size thresholds without a utility-issued RFP will require a PUC-approved waiver from the competitive bidding framework, for which only the utility can apply or petition.

Best designed feed-in tariffs provide greater clarity, transparency and certainty, and eliminate the need for a long contracting process which ultimately reduces the developer's and the utility's costs, benefiting the ratepayers in the long-run. Feed-in tariffs help create a market that increases RPS-eligible energy resources and projects.

Additionally, feed-in tariffs have inherent flexibility in that they can be designed to encourage the development of specific forms of renewable resource generation, or renewable generation at specific locations where it could be most valuable to the utility (i.e., areas that are not transmission constrained). DBEDT therefore believes that best designed feed-in tariffs are an effective tool in achieving Hawaii's energy independence and its attendant economic benefits by increasing renewable resources-based electricity generation.

2. DBEDT believes that best designed feed-in tariffs complement rather than supplement other methodologies for the utility to acquire renewable resources-based generation.

The current methodologies for the HECO Companies to acquire or procure renewable power generation include:

(1) procurement through the utility's Schedule Q, which applies to purchased power from small qualifying facilities with capacity of 100 kW or less and with the purchased power rates based on the utility's avoided cost;

(2) promotion of customer-sited systems through Net Energy Metering (NEM) which is mandated under part VI of chapter 269, Hawaii Revised Statutes ("HRS");

(3) procurement of renewable resources with capacity of at least 5 MW for HECO (2.72 MW for HELCO and MECO) through competitive bidding;

(4) procurement of renewable resources less than the capacity threshold size required under competitive bidding through purchase power contracts where there are no clearly defined rules or contracting process beyond PUC approval of the purchased power contract; and

(5) acquiring renewable resource generation through utility-owned projects.

The HECO Companies first implemented Schedule Q in June 1982 as a result of the Public Utility Regulatory Policies Act ("PURPA") passed in 1978 by the U.S. Congress as part of the National Energy Act. PURPA was aimed at promoting greater use of renewable energy. This law created a market for non-utility electric power producers (NUGs) using non-fossil fuels and for cogeneration, and required the electric utilities to buy power

from these producers at the "avoided cost" rate, which was the cost the electric utility would incur were it to generate or purchase from another source. Generally, the "avoided cost" is considered to be the fuel costs incurred in the operation of a traditional power plant.

The HECO Companies' Schedule Q only applies to power purchases from small qualifying facilities with capacity of 100 kW or less. DBEDT believes that the design of the feed-in tariffs should incorporate the utility's procurement from small qualifying facilities currently acquired through Schedule Q. The existing Schedule Q contracts should be provided the option to transition over to FiTs.

Hawaii's Net Energy Metering law was passed in 2001. The law is intended to encourage and promote customer-sited renewable energy generation and technologies and help Hawaii's transition to a clean energy future. The law is intended primarily to offset part or all of the customer's own electrical requirements, rather than to promote power sales to the utility. NEM provides an effective incentive for the rapid development of customer-sited renewable resource generation as evident by the significant increases in the number of net energy metered customers across all islands since 2001 when NEM first became law. DBEDT's position is that the net energy metering statute should continue to apply to current and future net energy

metered customers with respect to kilowatt-hours produced by the customer-generators that offset part or all of the customer's own electrical requirements, and the net energy metered customer may sell through the feed-in tariffs any excess kilowatt-hours that remain unused.

The competitive bidding framework for the procurement of relatively larger renewable power generation with capacity of at least 5 MW for Oahu (2.72 MW for MECO and HELCO), was first mandated by the PUC in December 2006. DBEDT believes that feed-in tariffs offer another means for utility solicitation and procurement of relatively larger renewable generation, and should be open to larger projects, especially those proven, commercially available, and cost-effective renewable resources under special terms and conditions deemed necessary for system protection and interconnection. FiTs could especially supplement the utility's competitive bidding framework for those renewable generation projects that meet the capacity size threshold for the bid process but for which there is no utility-issued RFP.

The procurement and contracting process for renewable power from smaller generation facilities with less than the threshold capacity size for competitive bidding is completely under the utility's control, as there are no PUC mandated rules, framework, or process except that the purchase power contract

requires PUC approval. DBEDT believes that feed-in tariffs fill the policy gap for projects below the MW size threshold for the competitive bidding framework. These relatively smaller renewable power producers could provide potential distributed benefits and resource diversity to the grid and FiTs could effectively promote this market.

Another method for the utility to acquire renewable power generation is through utility-owned projects. Except for the small HELCO-owned wind farm and hydro power, DBEDT is not aware of any other utility-owned renewable power generation in the HECO Companies' service territories. Under the Agreement, the parties committed to support the HECO Companies' plan to test the technical feasibility of converting their existing fossil fuel-based generation units to use bio-fuels. This conversion to bio-fuels should however take into consideration the availability, viability, and cost-effectiveness of locally-produced bio-fuels in the short- and long-term, or it could simply result in replacing imported fossil fuel with another imported fuel source. DBEDT believes that FiTs should not be extended to utility-owned renewable generation projects.

B. Feed-in Tariff Designs, Policies, and Pricing Methods

DBEDT recommends the following feed-in tariffs best design considerations for promoting and accelerating the addition of new renewable power generation in HECO's service territories:

1. Qualifying Resource Type or Technology

Hawaii's initial feed-in tariffs should be extended to all proven, commercially available and cost-effective RPS-eligible renewable generation resources and technologies which have relatively established operational experience in HECO's service territories, including wind, solar, hydro, geothermal, and biomass (i.e., HPOWER). Future evaluations and revisions to the initial FiTs should aim to include all RPS-eligible generation resources. The inclusion of a broad diversity of proven, commercially available, and cost-effective resources provides the utility the opportunity to build a diverse renewable generation portfolio with its attendant system benefits.

2. Resource or Project Sizes and Caps

Hawaii's initial feed-in tariffs should be extended to renewable generation with capacity size up to 5 MW for Oahu, and up to 2.72 MW for HELCO and MECO, depending on the resource type and technology.

For certain resources such as biomass or geothermal which provide firm power, higher project sizes than the above limits may be appropriate and should be considered by the Commission. For costlier resources such as solar PV, it may be desirable to include caps on the total annual installed capacity, in order to control the rate of deployment of marginally costlier resources and minimize ratepayer impacts.

Future revisions to the initial FiTs should consider including a target total portfolio cap or goal for each resource or technology type based on the determination of the most cost-effective resources allocation to achieve the statutorily mandated renewable portfolio standards (RPS). The total target portfolio cap or goal for each resource may be set for each of the initial RPS years (i.e., 2010, 2015, 2020, 2030) rather than setting an annual target cap or goal.

3. Pricing Methods

The FiTs rates should be cost-based and differentiated by technology or resource type, resource quality (i.e, firm versus intermittent), and by project size. The determination of the FiTs rates should take into consideration the following factors:

- (a) developer's costs plus a reasonable profit;
- (b) technological improvements over time;
- (c) economies of scale for larger projects;

- (d) providing incentives (such as "premium adder" rather than penalty) to reflect the resource value to the system such as location of the project, in-service date of the project, and dispatchability of the resource;
- (e) adjustment mechanism to adjust the FiTs rates over time in a pre-determined fashion to reflect changes in market factors such as but not limited to inflation, actual costs and production performance, and market price; and
- (f) FiTs rates adjustment mechanism for when a project or a resource technology is still producing and supplying energy to the system beyond the contract term.

4. Contract Term

The FiTs contract term should be set between 20-25 years or tied to the expected useful life of the resource technology or project. The FiTs design should also include a procedural provision relating to contract termination before the end of the contract term for situations such as non-performance and other similar conditions, as well as a procedural provision for the continuation of the contract beyond the contract term.

5. Interconnection Standards and Procedure

The HECO Companies currently have a PUC-approved interconnection rule and standards provided in the utility's

tariff Rule 14H. The HECO Companies' Rule 14H provides the interconnection rule and standards for distributed generating (DG) facilities operating in parallel with the utility's electric system. These interconnection rules and standards are designed and intended for customer-owned distributed generating facilities such as the net energy metered customers that are installed mainly to offset part or all of the customer's own load. Rule 14H is not designed for utility-scale renewable generating units that are designed to sell power to the utility.

FiTs best design for achieving the HCEI goal requires clear, transparent, and streamlined interconnection rules, standards, and procedures for interconnecting the renewable power generating facility designed to sell power to the utility system. These interconnection rules, standards, and procedures must be published and included in the FiTs' standard contract form. Rather than "one rule fits all", some elements of the FiTs best design interconnection rules, standards, and procedures may differ depending on the project size. These interconnection standards and procedures should be consistent with industry interconnection best practices; they must be clear; they must be transparent; they must be streamlined; and they must be relatively uncomplicated for ease of administration and implementation.

7. Other Essential FiTs Terms and Conditions

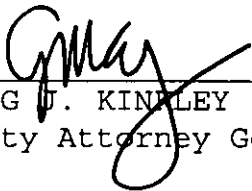
In addition to the resource or technology type and size eligibility, prices, contract term, and interconnection standards and procedures, best designed feed-in tariffs must clearly specify the terms and conditions relating to but not limited to the following:

- (a) project queuing based on project permitting and construction status;
- (b) Reservation Charge based on the project size;
- (c) interconnection costs responsibility of the utility and the resource project developer;
- (d) application and approval process based on project size;
- (e) data requirement from the renewable project developer, including without limitation the actual project cost, and periodic reporting requirements such as but not limited to the actual operation and maintenance costs;
- (f) provision relating to unit maintenance schedule;
- (g) take or pay provision;
- (h) delivery performance and penalty (or incentive);
- (i) rules on curtailment of power supplied to the utility;
- (j) treatment of the project's renewable energy credits;
- (k) periodic reporting by the utility; and

(1) periodic review by the PUC.

In conclusion, best designed feed-in tariffs that incorporate the above elements suggested by DBEDT for consideration, are effective tools in promoting and accelerating the addition of renewable power generation in the HECO Companies' generation portfolio. DBEDT believes that the instant docket should aim at adopting the best designed feed-in tariffs given the current information available, and allow for periodic evaluation and review by the Commission and the relevant parties as Hawaii gains experience in purchases of renewable energy under the initial feed-in tariffs resulting from this proceeding.

DATED: Honolulu, Hawaii, February 25, 2009.



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Certificate of Service

I hereby certify that I have served a copy of the Department of Business, Economic Development, and Tourism's Opening Statement of Position including proposals for feed-in tariffs design, policies, and pricing methods in PUC Docket Number 2008-0273, by electronic transmission on the date of signature to each of the parties listed below.

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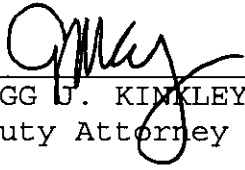
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